



US Army Corps
of Engineers
Seattle District

Public Notice

Proposal for a Mitigation Bank

Regulatory Branch
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ATTN: David J. Martin, Project Manager

Public Notice Date: 10 May 2004
Expiration Date: 9 June 2004
Reference No.: 200300879
Name: Skykomish Habitat, LLC

The U.S. Army Corps of Engineers (Corps) hereby notifies interested parties of an opportunity to comment on a proposal to construct and operate a mitigation bank in Snohomish County, Washington. Construction of the 239-acre (ac) Skykomish Habitat Mitigation Bank (SHMB) would require Department of the Army authorization pursuant to the requirements of Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

APPLICANT – Skykomish Habitat, LLC
ATTN: Mr. David Remlinger
12525 Old Snohomish-Monroe Road
Snohomish, WA 98290
Telephone: (425) 785-8428

AGENT – Environmental Restoration, LLC
ATTN: Mr. Eric D. Gleason
4340 East West Highway, Suite 200
Bethesda, MD 20814
Telephone: (301) 986-9800

LOCATION – The proposed SHMB would be constructed along the north bank of the Skykomish River approximately 2.5 miles upstream of its confluence with the Snohomish and Snoqualmie Rivers, near Monroe, in Snohomish County, Washington. The bank site is located in Sections 11 and 14, Township 27 North, Range 6 East on the Monroe, Washington USGS quadrangle map; in Water Resource Inventory Area 7 (Snohomish River Watershed); and in USGS Hydrologic Unit 17110009 (Skykomish).

WORK – Skykomish Habitat, LLC (proponent), proposes to construct and operate a 239-ac mitigation bank on a 260-ac site located along the north bank of the Skykomish River between River Miles 1.8 and 3.0. The site, which is partially protected from overbank flooding by a county-owned levee, is currently used for agricultural, recreational, residential, and other purposes.

Currently, the SHMB site is comprised of approximately 3 ac of stream channel, 23 ac of forested riparian zone, 21 ac of forested and emergent wetland, and 192 ac of “non-functioning” areas such as agricultural land, a residence compound, ball fields, and a dirt bike track. Development of the SHMB would end the current detrimental land uses and result in a permanently protected site comprised of approximately 46 ac of braided side channels connected to the Skykomish River, 50 ac of forested riparian zone, 129 ac of wetland, and 14 ac of enhanced upland. The existing levee may be modified to further normalize flood flow in the river

channel, including over the mitigation bank site. The entire 260-acre bank site would be protected in perpetuity by conservation easement. A detailed description of the implementation plan can be found in the attached, *Prospectus for the Skykomish Habitat Mitigation Bank, Monroe, Snohomish County, Washington*, dated April 15, 2004.

PURPOSE – The purpose of the SHMB is to provide for sale to the general public high-quality, consolidated, off-site compensatory mitigation for a variety of adverse aquatic ecosystem impacts associated with activities authorized by the Corps and other regulatory entities within the service area of the bank.

ADDITIONAL INFORMATION – The proponent is working with a mitigation bank review team (MBRT) to develop a mitigation banking instrument (MBI) in accordance with *Federal Guidance for the Establishment, Use and Operation of Mitigation Banks* (60 FR 58605-58614, November 28, 1995), the U.S. Department of Interior's *Guidance for the Establishment, Use and Operation of Conservation Banks*, dated May 2, 2003, and applicable state, local, and other federal requirements. An MBI details the legal and physical characteristics of a mitigation bank and describes how the bank would be established, operated, and protected in perpetuity.

Construction of the SHMB would involve the discharge of dredged and fill material into waters of the United States, which requires Department of the Army authorization under Section 404 of the Clean Water Act. The proposed project would also involve work in or affecting navigable waters of the United States, which requires Department of the Army authorization under Section 10 of the Rivers and Harbors Act of 1899. Based on a preliminary evaluation of this proposal by the Corps, it appears that the proposed bank may be authorized by Nationwide Permit 27, which authorizes qualifying wetland and riparian restoration and creation activities.

ENDANGERED SPECIES – Pursuant to the requirements of the Endangered Species Act of 1973 (ESA), the Corps must assess the potential impacts of its actions on species listed, or proposed for listing, as threatened or endangered under the ESA. The bald eagle (*Haliaeetus leucocephalus*), threatened; Puget Sound Chinook salmon (*Oncorhynchus tshawytscha*), threatened; and Coastal/Puget Sound bull trout (*Salvelinus confluentus*), threatened are known to occur in the vicinity of the project area. Upon receiving comments in response to this public notice, the Corps will evaluate the potential impact of the proposed action on these species and any designated critical habitat for federally listed species.

ESSENTIAL FISH HABITAT – The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). The Corps has determined that EFH for Pacific salmon occurs in the action area. Upon receiving comments in response to this public notice, the Corps will evaluate the potential impact of the proposed action on EFH for federally-managed fisheries in Washington waters. The Corps' final determination relative to project impacts and the need for mitigation measures is subject to review by, and coordination with, the NMFS.

CULTURAL RESOURCES – The District Engineer has reviewed the latest published version of the National Register of Historic Places (NRHP), lists of properties determined to be eligible for listing on the NRHP, and other sources of information. The following is our current knowledge about the presence or absence of historic properties in the action area and the likely effect of the proposed undertaking upon historic properties:

No known historic properties occur in the vicinity of the proposed project. The majority of the property has been in agricultural use for at least 50 years and studies have shown that shallow plow layers are likely to leave historic properties undisturbed. Because of its position in the landscape (i.e., adjacent to a river), there is a possibility of encountering undiscovered historic resources during construction. The

proponent has coordinated with the Tulalip Tribes (Tulalip). The Tulalip advised the proponent that there remains a chance that undiscovered cultural resources occur on the bank site but that, based on the Tulalip's knowledge of historical sites within the action area, a cultural resource study will not be needed. The proponent has agreed to notify the Tulalip in the event that cultural resources are encountered during construction.

The District Engineer invites responses to this public notice from Federal, State, and local agencies, historical and archeological societies, Indian tribes, and other parties likely to have knowledge of, or concerns about, historic properties in the area.

PUBLIC HEARING – Any person may request, in writing and within the comment period specified in this notice, that a public hearing be held to consider this proposal. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

EVALUATION – The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to assist in developing fact upon which to base a decision by the Corps and the MBRT as to whether or not to authorize the proposed mitigation bank. For accuracy and completeness of the record, all comments in support of, or in opposition to, the proposed mitigation bank should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for that support or opposition.

ADDITIONAL EVALUATION – The State of Washington will review this proposal for consistency with the Washington Coastal Zone Management Program and for compliance with the applicable State and Federal water quality standards pursuant to Section 401 of the Clean Water Act. The proposed bank will likely require Shorelines Management Act Substantial Development authorization and Hydraulic Project Approval from the State of Washington, as well as authorization from Snohomish County.

COMMENT AND REVIEW PERIOD – Written comments submitted in response to this public notice will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize the proposed mitigation bank. Comments should reach this office, Attn: Regulatory Branch, not later than the expiration date of this public notice to ensure consideration. Comment letters should reference the following name and reference number:

Skykomish Habitat, LLC
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